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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

1033-MS1013

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*8-29-07*

Signature

Typed or printed name

Application Number

10/764,812

Filed

January 26, 2004

First Named Inventor

Martha Karen Boyd

Art Unit

2617

Examiner

LY, Nghi H.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

 applicant/inventor.*Jeffrey G. Toler*

Signature

 assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

\_\_\_\_\_  
Typed or printed name attorney or agent of record.

Jeffrey G. Toler

512-327-5515

Registration number \_\_\_\_\_

Telephone number

 attorney or agent acting under 37 CFR 1.34.*8/29/2007*

Date

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  
Submit multiple forms if more than one signature is required, see below.



Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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NO. 573 P. 6

AUG 29 2007

Attorney Docket No.: 1033-MS1013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Martha Karen Boyd

Title: INTEGRATED MOBILE PHONE RING SCHEDULER

App. No.: 10/764,812

Filed: January 26, 2004

Examiner: LY, Nghi H.

Group Art Unit: 2617

Customer No.: 60533

Confirmation No.: 6878

Atty. Dkt. No.: 1033-MS1013

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MS: AF  
Commissioner for Patents  
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Alexandria, VA 22313-1450

**REMARKS IN SUPPORT OF THE PRE-APPEAL BRIEF  
REQUEST FOR REVIEW**

Dear Sir:

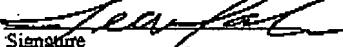
In response to the Final Office Action mailed June 8, 2007, (hereinafter, "Final Office Action") and further pursuant to the Notice of Appeal and Pre-Appeal Brief Request for Review submitted herewith, Applicant respectfully requests review and reconsideration of the Final Office Action in view of the following issues:

**1. The Asserted Combination of Awada, Chen, Okazaki and Galbreath Is Missing an Element of Each of the Claims**

Applicant traverses the rejection of claims 1-4, 6, 7, 10, 12, 14, and 16, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 6,831,970 ("Awada") in view of U.S. Patent No. 6,968,216 ("Chen") and further in view of U.S. Patent No. 7,050,573 ("Okazaki"), and further in view of U.S. Patent No. 6,347,133 ("Galbreath"), at paragraphs 2-3 of the Final Office Action. The asserted combination fails to disclose or suggest the specific combination of claim 1. For example, the Final Office Action admits that Awada, Chen, and Okazaki, separately or in combination, does not disclose or suggest a ringer controller that is adapted to automatically

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Signature

change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in claim 1. *See* Final Office Action, page 4. Galbreath does not disclose this element of claim 1. Instead, Galbreath discloses an answering device that permits a number of rings before a call is answered, and speaker volume to be programmed to vary depending on time of day and day of week or to be set at desired levels for specific lengths of time. *See* Galbreath, col. 4, lines 35-40. Galbreath does not disclose or suggest a ringer controller adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis. Therefore, Awada, Chen, Okazaki, and Galbreath, separately or in combination, do not disclose or suggest each and every element of claim 1. Hence, claim 1 is allowable. Claims 2-4, 6-7 and 10 depend from claim 1, and are therefore allowable, at least by virtue of their dependence from allowable claim 1.

The asserted combination fails to disclose or suggest the specific combination of claim 12. For example, the Final Office Action admits that Awada, Chen, and Okazaki, separately or in combination, does not disclose or suggest a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in claim 12. *See* Final Office Action, page 4. As explained above with regard to claim 1, Galbreath does not disclose or suggest this element. Therefore, Awada, Chen, Okazaki, and Galbreath, separately or in combination, do not disclose or suggest each and every element of claim 12. Hence, claim 12 is allowable. Claim 14 depends from claim 12 and is allowable at least by virtue of its dependence from allowable claim 12.

The asserted combination fails to disclose or suggest the specific combination of claim 16. For example, the Final Office Action admits that Awada, Chen, and Okazaki, separately or in combination, does not disclose or suggest a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in claim 16. *See* Final Office Action, page 4. As explained above with regard to claims 1 and 12, Galbreath does not disclose or suggest this element. Therefore, Awada, Chen, Okazaki, and Galbreath, separately or in combination, do not disclose or suggest each and every element of claim 16. Hence, claim 16 is allowable.

**2. The Asserted Combination of Awada, Chen, Owazaki, Galbreath and Miura Is Missing an Element of Each of the Claims**

Applicant traverses the rejection of claims 5, 15 and 21, under 35 U.S.C. §103(a), as being unpatentable over Awada, in view of Chen, and further in view of Owazaki, and further in view of Galbreath, and further in view of U.S. Patent No. 6,763,105 ("Miura"), at paragraph 5 of the Final Office Action. As explained above, Awada, Chen, Owazaki, and Galbreath, separately or in combination, fail to disclose or suggest each and every element of claims 1, 12, and 16. Miura does not disclose the elements of claims 1, 12, and 16 that are not disclosed by Awada, Chen, Owazaki, and Galbreath. For example, Miura does not disclose or suggest a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in each of claims 1, 12, and 16. Instead, Miura discloses a ringer-tone-volume controlling means for controlling a tone volume of a ringer during call incoming, and a call-incoming-operation limiting function controlling means for instructing the ringer-tone-volume controlling means at a time set by a user to change over the tone volume to a tone volume set by the user. See Miura, col. 2, lines 1-6. Miura does not disclose or suggest a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis. Therefore, Awada, Chen, Owazaki, Galbreath, and Miura, separately or in combination, do not disclose each and every element of claims 1, 12 and 16, or of claims 5, 15, and 21, which depend from claims 1, 12, and 16, respectively. Hence, claims 5, 15, and 21 are allowable.

**3. The Asserted Combination of Awada, Chen, Okazaki, Galbreath and Dutta Is Missing an Element of Each of the Claims**

Applicant traverses the rejection of claims 8, 9, 17 and 18, under 35 U.S.C. §103(a), as being unpatentable over Awada, in view of Chen, and further in view of Okazaki, and further in view of Galbreath, and further in view of U.S. Patent No. 6,760,581 ("Dutta"), at paragraph 6 of the Final Office Action. As explained above, Awada, Chen, Okazaki, and Galbreath, separately or in combination, fail to disclose or suggest each and every element of claims 1 and 16, from which claims 8-9 and 17-18 depend, respectively. Dutta does not disclose the elements of claims 1 and 16 that are not disclosed by Awada, Chen, Okazaki, and Galbreath. For example, Dutta does not disclose a ringer controller that is adapted to automatically change a parameter of the

ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in claim 1 and in claim 16. Instead, Dutta discloses providing a hold operation for a mobile phone that can be triggered by a user pressing a "hold" key on the mobile phone or triggered automatically via wireless technology such as Bluetooth. *See* Dutta, Abstract, and col. 5, line 51 – col. 6, line 13. Dutta does not disclose a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis. Therefore, Awada, Chen, Okazaki, Galbreath, and Dutta, separately or in combination, fail to disclose each and every element of claim 1, or of claims 8 and 9, which depend from claim 1. Further, Awada, Chen, Okazaki, Galbreath, and Dutta, separately or in combination, fail to disclose each and every element of claim 16, or of claims 17 and 18, which depend from claim 16. Hence, claims 8, 9, 17, and 18 are allowable.

#### **4. The Asserted Combination of Awada, Chen, Dutta and Galbreath and Is Missing an Element of Each of the Claims**

Applicant traverses the rejection of claims 22 and 25, under 35 U.S.C. §103(a), as being unpatentable over Awada, in view of Chen, and further in view of Dutta, and further in view of Galbreath, at paragraph 7 of the Final Office Action. Applicant has previously canceled claim 24 without prejudice or disclaimer. The asserted combination fails to disclose or suggest the specific combination of claim 22. For example, the Final Office Action admits that Awada, Chen and Dutta, separately or in combination, does not disclose or suggest a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in claim 22. *See* Final Office Action, page 11. As explained above with regard to claims 1, 12 and 16, Galbreath does not disclose or suggest this element. Therefore, Awada, Chen, Dutta, and Galbreath, separately or in combination, fail to disclose each and every element of claim 22, or of claim 25, which depends from claim 22. Hence, claims 22 and 25 are allowable.

#### **5. The Asserted Combination of Awada, Chen, Dutta, Galbreath, and Okazaki Is Missing an Element of Each of the Claims**

Applicant traverses the rejection of claim 23, under 35 U.S.C. §103(a), as being unpatentable over Awada, in view of Chen, and further in view of Dutta, and further in view of

Galbreath, and further in view of Okazaki, at paragraph 8 of the Final Office Action. The Final Office Action admits that Awada, Chen, and Dutta, separately or in combination, does not disclose or suggest a ringer controller that is adapted to automatically change a parameter of the ringer by matching a time and day of an incoming call to a ringer control schedule on a call-by-call basis, as recited in claim 22. See Final Office Action, page 11. As explained above, Galbreath does not disclose this element of claim 22, from which claim 23 depends. The Final Office Action admits that Okazaki does not disclose or suggest this element. See Final Office Action, page 4. Therefore the asserted combination, separately or in combination, fails to disclose each element of claim 22, or of claim 23, which depends from claim 22. Hence, claim 23 is allowable.

### CONCLUSION

Applicant has pointed out specific features of the claims not disclosed, suggested, or rendered obvious by the references applied in the Office Action. Accordingly, Applicant respectfully requests reconsideration and withdrawal of each of the objections and rejections, as well as an indication of the allowability of each of the pending claims.

Any changes to the claims in this amendment, which have not been specifically noted to overcome a rejection based upon the prior art, should be considered to have been made for a purpose unrelated to patentability, and no estoppel should be deemed to attach thereto.

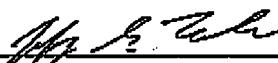
The Examiner is invited to contact the undersigned attorney at the telephone number listed below if such a call would in any way facilitate allowance of this application.

The Commissioner is hereby authorized to charge any fees, which may be required, or credit any overpayment, to Deposit Account Number 50-2469.

Respectfully submitted,

\_\_\_\_\_  
Date

8-29-2007

  
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